etopia <etopia@pacificnet.net> on 12/22/2001 12:29:22 AM

To: vss@FEC
cc: info@wote.org

Subject: Comments on Volume I & II of Voting Systems Standards

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Dear FEC,

By way of comment on the latest iteration of the VSS, I am submitting an article entitled "Internet Voting Redux" on behalf of myself and my organization, Campaign for Digital Democracy. The main thesis of this article is that voting systems don't need to protect the anonymity of voters in order to be fair, secure, properly designed, and legally and politically acceptable.

The essence of the argument in contained in this paragraph:

In that oft-cited model of our democracy, the New England town meeting, votes are not anonymous. Men and woman literally stand up to be counted on the issues facing their community, and they do so in the full sight of all their neighbors. In the United States House of Representatives, and in the United States Senate (the self-proclaimed □greatest deliberative body in the world□), votes are not anonymous. Members of the House and United States Senators used to stand up and be counted on the issues facing the nation (now, of course, they use electronic voting, but that□s another story). In the Congress, votes of Representatives and Senators are recorded, re-recorded, listed, catalogued, and archived back to the founding of the Republic.

On another, more general point:

Towards the end of the last century, on October 18, 1997, then-Governor of California Pete Wilson vetoed a vastly-watered down version of an Internet voting bill I'd written (watered down from implementing remote Internet voting to calling for a study of it). He wrote:

Although current encryption technology is making advances in providing a more secure environment to prevent tampering by third parties, no one can yet guarantee a completely safe, tamper-proof system. Without such a guarantee, a study is premature.

Cordially,

PETE WILSON

A little more than four years later, on December 11, 2001, an FEC News Release said, in pertinent part,

> Highlights of the draft standards include:□
>
> -- Conclusion that controls cannot be developed at the present time to make remote Internet voting sufficiently risk-resistant to be confidently used by election officials and the voting public, therefore standards cannot be written for the testing and qualification of these systems.

As I've suggested numerous times, FEC should set a standard that WOULD "make remote Internet voting sufficiently risk-resistant to be confidently used by election officials and the voting public" and then require potential vendors to meet that standard, as you do for every other aspect of voting systems.

Wouldn't that be more fair than following in the circularly-illogical footsteps of the former California governor?

Sincerely,

Marc Strassman
Executive Director
Campaign for Digital Democracy

 - Internet Voting Redux.PDF

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Internet Voting Redux--Yet Another Modest Proposal to Revive an Etopian Dream from the Last Century

By Marc Strassman
President
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December 15, 2001

At a time when the US Air Force is bombarding Afghanistan with the help of GPS satellites, drone observers, laser-guided munitions including smart bombs, and imaging networks that can let policymakers in Washington, D.C., watch the rubble bounce in real time, and business travelers aka "road warriors" can send, receive, store, and manipulate integrated voice, data, e-mail, and virtual kitchen sinks anywhere their networks run, Internet voting, a technopolitical chestnut out the long-gone late 90s, is, in the view of both its opponents and its few supporters, dead in the water.

It was not always thus. Since the mid-90s, when I thought it up, Internet voting has been, serially, a utopian fantasy, a failed statewide initiative in California, the basis of several start-up companies (such as the Seattle-based eBallot.net, which I co-founded), the object of intense scrutiny by ideological opponents of easier, faster, cheaper voting, the target of technologists with issues about it, and, briefly, a possible solution to the kinds of problems generated by the use of antique chad-based voting systems that led to the November, 2000, debacle in Florida.

A number of Internet voting companies, or companies that could provide Internet voting services, survive to this day, most trying to overcome the legacy of the late 90s: invisibility followed by overselling followed by debunking and demise before any Internet voting system ever had the chance to wreak the havoc its opponents prophesied it would if it were ever unleashed upon an unprepared and unsuspecting world.

Internet voting, as even those who are tuning in for the first time to this issue can tell, has come in for a lot of criticism in its time. These attacks have ranged from the threat it potentially posed to representative government (what if we had direct democracy?) to worries about someone holding a gun to their spouse's head and threatening to blow their brains out if they didn't use their mouse to vote for the candidate of the gun-wielder's choice.

But the three most important critiques of Internet voting were always:

1. What about people who don't have an Internet connection?
2. What about hackers?
3. What about anonymity?

The main focus of this piece is #3, anonymity. I will say what I always said about #1 in a second. I will, someone cavalierly, try to dismiss #2 with a political, rather than a technical, argument.

Insuring both the unambiguous authentication of an online voter, in order to assure that only the registered and qualified vote, and that they vote only once per election cycle, while at the same time protecting the true identity of the voter from everyone else has long been a daunting technical hurdle. The main argument usually given for its necessary inclusion in any Internet voting system goes back to the introduction of the "Australian ballot" around the turn of the 19th to the 20th Century.

In the bad old days before the adoption of this electoral reform from Down Under, voters were often given alcohol and money by a candidate's campaign staff and directed to select a certain colored token corresponding to the party of these operatives. To make sure they got their money's worth, the staffers would stand at the polls and watch, in order to see for themselves if those they'd plied with liquor and paid off were really doing as they'd promised they would.

The more scrupulous Aussies devised a ballot with ALL the candidates names on it, so that voters, in the secrecy of their voting booths, could choose whom they would without giving party workers the ability to see for whom they'd voted. They could still take money and alcohol, of course, but now the campaign workers would have only their word to go on in deciding if they'd done their bidding. As anticipated, the Australian (or secret) ballot, led to a drastic reduction in the kind of antics they were designed to eliminate.

It is for this same reason that voters today, whether they check a box, fill in an optically-scanned sheet, use a lever-based voting machine, or punch chads out of an IBM card, are given only a receipt showing that they HAVE voted, not HOW they have voted. This is so any mustachioed villain from the 19th Century who might try to buy their vote will never know for sure if he has succeeded.

This, then, is the reasoning behind the requirement. The votes of those voting on the Internet, as in any other kind of official polling process, must be anonymous because, if their voting preferences were known, they would be able to sell their precious and inalienable birthright to the highest bidder, thereby irreparably corrupting the bedrock foundation of our democratic society.

But hold on a minute.

In that oft-cited model of our democracy, the New England town meeting, votes are not anonymous. Men and woman literally stand up to be counted on the issues facing their community, and they do so in the full sight of all their neighbors. In the United States House of Representatives, and in the United States Senate (the self-proclaimed "greatest deliberative body in the world"), votes are not anonymous. Members of the House and United States Senators used to stand up and be counted on the issues facing the nation

(now, of course, they use electronic voting, but that's another story). In the Congress, votes of Representatives and Senators are recorded, re-recorded, listed, catalogued, and archived back to the founding of the Republic.

Now, do we worry that Representatives and Senators will take their voting records and run off to mustachioed villains and collect ill-gotten gains (in the form of, say, liquor and money) in exchange for sacrificing their own integrity, while selling their votes to the highest bidder? Of course not.

So, if the votes of elected officials (which are, on average, more significant in their impact than the single votes of individual voters) can be associated with those who cast them without compromising the integrity of the democratic process, why can't the votes of individual voters be likewise made public?

Although some would disagree, it is, and should be, illegal to buy a person's vote, whether that person is a Senator or a first-time voter in a village election. There are laws against this, and they ought to be fully enforced. But if full-disclosure of how a person votes on public issues is good enough for New England town meetings and for the U.S. Congress, it ought to be good enough for everyone else too.

Or we could just make Congressional voting anonymous too, and see what this does to the structure of campaign finance and the distribution of campaign contributions.

That having been said, let me briefly re-iterate what I consider to be a perfectly adequate response to the "concern" voiced by so many opponents of Internet voting that the "digital divide" makes Internet voting inherently unfair and therefore untenable.

Access to the Internet, like access to fine wine, luxury automobiles, trips to Cancun, and other consumer products, is unevenly distributed in the United States. This is the consequence of the ideology of "rugged individualism" and of any number of historical incidents and decisions that it would be far too divisive to go into. Suffice it to say that while everyone has a television (or several), and almost everyone has a telephone, and a growing proportion of people have indoor plumbing, not everyone has a computer and access to the Internet. A lot more, however, have it than did in the late 90s, when this excuse for not allowing Internet voting was first introduced.

I also want to stress, having heard the phrase "digital divide" for the first time only in the context of opposition to Internet voting, that those who expressed, and continue to express, so much anguish at the plight of the digitally-deprived and how they wouldn't be able to vote over the Internet if such a reform were introduced, did not before Internet voting arose as an issue nor, to my knowledge, do now find it expedient to actually do anything about that deprivation. Maybe, to them, the problem is not unequal access, but the threat of equal participation.

In any case, while the digital divide today is not as wide as it was earlier, it is still true that some people do not have access to the Internet from their homes. Some people, in fact, don't even have homes. Maybe that ought to be taken care of before we worry about

universal Internet access.

Just in passing, for the sake of irony, let me mention that one of the main sources of inspiration for my own thinking and work about Internet voting came from a report entitled "Universal Access to E-Mail," issued by the RAND Corporation, whose headquarters on Main Street in Santa Monica, California, are directly across the street from that city's City Hall, which at the time the report came out boasted one of the largest encampments of homeless people anywhere.

More irony: the City of Santa Monica, in the early 90s, set up PEN (Public Electronic Network) as a means to, among other things, provide the homeless with a means of logging on and mainstreaming themselves. If a ten-year-old program to provide homeless people with Internet access can work in one place, why can't similar programs be set up to provide everyone on the wrong side of the digital divide with access for voting, not to mention job searching, job training searching, treatment facilities, shelters, and so on?

But back to the issue of universal access as a pre-condition of Internet voting and lack of it as an excuse to block it. No one is saying voting OFF the Internet would be prohibited if voting ON the Internet were allowed. Let those who can't (or won't) vote online vote offline. But let those who can (and want to) vote online do so.

Critics of Internet voting on the grounds of uneven access should devote themselves to eliminating that unevenness. They, and others, should work to get government and private foundations to focus on this problem and do everything they possibly can to eliminate it. And it wouldn't hurt to encourage computer makers to build cheap, functional machines that would provide basic Internet access at an affordable price.

The French did this as a lower technological level than we are talking about with their Minitel system and the results were very favorable. It ought to be possible to build a basic unit that delivers Internet functionality easily and cheaply. The more elaborate wireless, data with voice, hand-held products now coming on the market at around $600 means that technology is good enough to do more for less, but the lack of really cheap, really easy-to-use Internet access machines means that market forces haven't yet generated a low-end solution. Maybe some charitable subsidies or government intervention could solve this problem? Internet access stamps perhaps?

And what about letting the access-deprived go to libraries, schools, bus stops, and city buildings to access laptops, desktops, or kiosks to get on the Net?

Between the non-necessity of everyone voting online, the possibilities of private and government initiatives, and the use of publicly-available computers, the digital divide need not be an insuperable obstacle to Internet voting.

Which leaves the old hackeroo as the final barrier to Internet voting. Hacking, spoofing, launching of denial-of-service attacks, and other anti-social tricks of the terminally immature or politically overwrought are all cited as reasons why the sacred function of voting cannot be placed online. I know that organizations including airlines, stock markets, banks, and other major corporations seem to be functioning at pretty high levels of security, efficiency, and, in some cases, profit, while relying extensively on computer

networks to do their business.

I hope no one is saying or implying that while private corporations can create workable and powerful networks to carry out their missions (and even to expand it and enhance their ability to serve customers worldwide 24/7 with increasing levels of sophistication) that doing the same for voting, or initiative signing, or the delivery of government services is simply beyond the capability of governmental organizations.

Or that society as a whole can provide the human, financial and technical resources to make sure that anyone with ten dollars can get an electronically-delivered ticket to "Monsters, Inc." in ten seconds but won't be able to use similar equipment to vote, no matter how long he or she is willing to wait?

Because that would imply an explicit or implicit social decision to have a state-of-the-art corporate sector and a horse-and-buggy government sector, with an inevitable, continuing, and escalating transfer of power from the supposedly one-person/one-vote realm of government to the one-dollar/one-vote world of private enterprise, and, eventually, the complete assimilation of the government sector as a mere appendage of corporate power.

Yet opponents of Internet voting say that voting is different and that the extensive levels of security present in corporate systems are not nearly enough for the higher calling of voting. They say it must be perfect, lest a single vote go uncounted, or be counted incorrectly. Well, I'm absolutely in favor of 100% accuracy in vote casting and vote counting and vote reporting. But since computers are already generally used to tally the vote totals called or carried in in every election, adding the Internet to the mix, while adding some risk, doesn't exactly introduce it for the first time to the process.

And now a word about the sacredness of elections. Foregoing for the moment any mention of the Florida Debacle of 2000, I want to mention a few statistics relating to the actual importance in the larger scheme of things democratic of these exercises in popular sovereignty.

The last time I looked, 92% of incumbent Representatives in the US House of Representatives were re-elected to office. Last Friday, David Brooks, speaking on "The NewsHour with Jim Lehrer," pointed out that only 13% of all House seats are contested, meaning that both parties have a reasonable chance of winning an election there. With the generally unremarked, but crucial, decennial process of reapportionment now underway, we can expect this figure of one-out-of–eight to decline even further.

Here in Los Angeles, where 30% turnout in a municipal election is considered "above average," 18% of the registered voters turned out in 1999 to vote on a new constitution, or charter, for the city (it was adopted).

Fewer and fewer people vote. This was one of the main reasons I imagined and tried to implement Internet voting. But it hasn't been implemented, and voting rates have continued to fall. Lack of interest and participation means money and those who give it

assume a greater and great role in "politics" and "elections." This drives away more people, giving money and those who give it more clout and so on.

The logical culmination of this process (which we seem to be approaching) is one in which political power is directly proportional to the amount of cash invested in "elections" and in which the power thereby acquired is used to pass laws giving more money to the rich, who re-invest it in what's left of politics until all the power and all the money not needed to keep the powerless from rebelling is in the hands of a few, whom we may, using the Greek nomenclature, call the "oligarchs."

Apart from demonstrating the irony of prohibiting bribery for the voters but requiring it of elected politicians, this argument is designed to make the larger point that while, at the ground floor level, we seem to be protecting democracy from corruption and dissolution, we are simultaneously contributing to its undermining and annihilation within the penthouse suites above.

Karl Marx and Abraham Lincoln were contemporaries. What Marx (borrowing from and transforming Hegel) meant by "dialectical materialism" is what Lincoln meant when he cited the Bible in proclaiming that "a house divided against itself cannot stand." They both meant that a world half enslaved and half free could not long continue in that state.

Similarly, neither a towering skyscraper being consumed by flame in its upper stories or a nation being consumed by greed and lack of imagination in the highest councils of its government can long remain standing either.

Internet voting is no panacea, but perhaps it could do something to remedy these problems before the entire structure collapses, and crushes us all.